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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,589	04/22/2004	Timothy E. McCue		5564

42515 7590 09/21/2005

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EXAMINER

JACKSON, ANDRE L

ART UNIT PAPER NUMBER

3677

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/828,589	MCCUE ET AL.	
	Examiner	Art Unit	
	Andre' L. Jackson	3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 12, 14 and 15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 12, 14 and 15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11, 12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 2,583,950 to Kirschner. Kirschner discloses an adjustable hinge for mounting a door (D) to a fixed member (J), comprising:

a first hinge (36, 18) that is attached to the fixed member and to the door or gate, the first hinge being manually adjustable to adjust the position of the door or gate with respect to the fixed member in both a vertical and horizontal direction; and a second hinge (10) that is attached to the fixed member and to the door, and as the first hinge is adjusted to move the door or gate in the vertical direction the second hinge follows the first hinge and does not have to be manually adjusted to change the vertical position of the door and wherein the second hinge comprises; a first plate (10) that is attached to the fixed member; a second plate (36) that is attached to the edge of a door; an unthreaded hinge pin (22); and a first connecting member (20) fastened to the first plate and having an unthreaded hole there-through which the unthreaded hinge pin passes to pivotally attach the first connecting member to the first plate, the first connecting member having an extension (54); and a second connecting member (50) fastened to the second plate and having a hole (53) there-through which the first connecting member extension passes and is secured in the hole; wherein the first connecting member is freely movable along the unthreaded hinge pin

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(Fig. 4), and as the first hinge is adjusted in the vertical direction the second hinge follows the first hinge by the first connecting member moving freely along the unthreaded hinge pin.

As to claims 12 and 14, the first hinge comprises, a frame plate (10) that is attached to the fixed member; a door plate (36) that is attached to the edge of a door, a hinge pin (22) defining a longitudinal axis with a threaded distal end and a first connecting member (20) associated with the frame plate and having a hole through which the hinge pin passes to pivotally attach the first connecting member to the frame plate. The first connecting member having an extension (54), and a second connecting member (50) associated with the second plate and having a hole (53) through which the first connecting member extension passes, wherein the hinge pin is used as an adjustment with bearings (24) to move the first connecting member along the hinge pin and thereby adjust the position of the door with respect to the fixed member in the vertical direction; and wherein the position of the second connecting member is changed with respect to the first connecting member extension to thereby adjust the position of the door or gate with respect to the fixed member in the horizontal direction.

As to claim 15, the extension of the first connecting member is a threaded bolt and there is a nut (60) threaded onto the extension at either side of the hole through the second connecting member, the nuts are normally tightened against the second connecting member at either side of the hole there through to prevent the second connecting member from moving along the threaded extension of the first connecting member, one nut at one side of the hole is loosened and turned away from the side of the hole it is adjacent to while the nut at the other side of the hole is tightened against the second connecting member to move it along the threaded extension of the

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first connecting member and thereby adjust the position of the door or gate with respect to the fixed member in the horizontal direction, and when the second connecting member is properly positioned along the threaded extension the one nut is again tightened against the second connecting member to lock the second connecting member with respect to the extension of the first connecting member.

Response to Applicant's Arguments

Applicant's arguments filed in the Amendment of June 21, 2005, with respect to the rejection(s) of claim(s) 1-15 over #398,636 to Mallory and Mallory in view of #527,685 to Haege have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of applicant's amendment to the claims, thus previously cited reference #2,583,950 to Kirschner has been applied and used to meet the limitations of applicant's amended claims. Accordingly, claims 11, 12, 14 and 15 are unpatentable over Kirschner.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andre' L. Jackson whose telephone number is (571) 272-7067. The examiner can normally be reached on Mon. - Fri. (9:30 am - 6 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

André L. Jackson
Patent Examiner
AU 3677

ALJ


ROBERT J. SANDY
PRIMARY EXAMINER